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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,703	03/20/2000	Suresh Kumar	249768029US	6170

25096 7590 12/29/2004

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

EXAMINER

POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/531,703

Applicant(s)

KUMAR, SURESH

Examiner

Frantzy Poinvil

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/24/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments filed 9/24/2004 have been fully considered but they are not persuasive.

Remarks:

Applicant's arguments that Ausubel is directed to a single auction is not convincing. In the system of Ausubel, a plurality of items or goods are being auctioned simultaneously wherein a bidder may choose to bid on more than one good or item. The bidding system of Ausubel is a dynamic system having multiple rounds. Bidders may choose to submit bids on a set of bidding rules that may be revised as information is generated through the auction process. Ausubel describes various scenarios in which a user may bid on more than one item using different rules. See column 2, lines 4-31 and columns 32-34 of Ausubel. Moreover, the Examiner asserts that an auction of a plurality of items is an indication of a plurality of auctions.

It appears that the applicant is arguing that Ausubel is not referring to a plurality types of auction systems. In fact reviewing the instant claims, applicant is not claiming a plurality of different types of auction systems each having a different bidding technique. Applicant is reminded that the claims are interpreted in light of the specification, limitations from the specification cannot be not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 10, 23 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Ausubel (US Patent No. 6,021,398).

As per claims 1, 10 and 40, Ausubel discloses a computer implemented method and apparatus wherein multiple items are being auctioned. Applicant is directed to the abstract of Ausubel. Ausubel also further teaches the steps of receiving an indication of a plurality of auctions and participating in some of the indicated auctions. Note column 8, lines 20-66. Ausubel also teaches providing a bidding technique to apply to the indicated auctions. See column 10, line 56 to column 12, line 19. Ausubel also teaches a bidder provides rules regarding bidding preferences. Applicant is directed to column 10, line 56 to column 12, line 19 of Ausubel.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-9, 11-21, 22-32, 34-39 and 41-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausubel (US Patent No. 6,021,398).

The teachings of Ausubel are discussed above. Ausubel does not explicitly state a bidding plan storage device. However, Ausubel discloses a user specifying bidding rules on how to bid. The bidding rules are similar to a bidding plan. Providing such in a storage device would have been obvious to one of ordinary skill in the art to implement in an electronic bidding system such as that of Ausubel in order to provide an automatic retrieval of the rules to apply for given scenario in a particular auction system. Thus, bids would have been placed in accordance with the bidding plan.

The teachings of Ausubel are given above. As per claims 2-9, 11-21, 23-32, 34-39 and 41-47, placing a bid at the auction with the lowest current bid whenever being outbid is not explicitly stated in Ausubel. Such would have been obvious to one of ordinary skill in the art in the system of Ausubel with the motivation to secure a position wherein the possibility of obtaining the bidden item at low price exists.

Ausubel further teaches placing bids at a plurality of auctions so that multiple bids are pending simultaneously. See column 13, line 6 to column 18 of Ausubel. Bidding at an auction only after winning another auction would have been obvious to one of ordinary skill in the art because a bidder would have enough funds to use to apply at another auction. Bidding at an auction after losing at another auction is routinely done in the art. Permitting such in the system of Ausubel would have been obvious to one of ordinary skill in the art in order for a bidder to maintain a leverage on the bidding process.

The bidding technique including a combination of placing a bid at the auction with the lowest current bid whenever being outbid, bidding at a first auction until reaching a maximum bid and then bidding on a second auction, and bidding at a second auction only after winning a first auction is not explicitly stated in Ausubel. The Examiner notes that during an auction, a bidder may have the opportunity to place more than one bid at one or more different items. If there exist a plurality of auctions, the bidder will also be opted to place a bid at one or more of the plurality of auctions for one or more item. Provided such in the system of Ausubel would have been obvious to one of ordinary skill in the art in order to provide leverage to all bidders participating in the multiple auction system of Ausubel.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion


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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326 for Before Final actions and (703) 872-9327 for After Final actions.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP
December 9, 2004


FRANTZY POINVIL
PRIMARY EXAMINER
Au 3628